GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department –Revision Petition filed by Sri Behara Eswara Rao, S/o Balakrishna, Occ: Superintendent, East-Coast Railway, Visakhapatnam, against the G.O.Ms.No.01, S.W.(CV.2) Department, dated 06.01.2007, wherein upheld the proceedings No.Rc.1233/97/C1, dated 07.10.2001 of the District Collector, Srikakulam & confirmed the orders issued in G.O.Ms.No.48, S.W.(CV.2) Department, dated 31.05.2004, under Section 8 (1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Revision Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 145 Dated: 29-08-2018
Read the following:

1. Proceedings of the District Collector, Srikakulam, Rc.No.1233/97/C1, dated 07.10.2001.
2. Appeal Petition filed by Sri Behara Eswara Rao S/o Balakrishna Murthy of Visakhapatnam District, dated 23.10.2001.
3. G.O.Ms.No.48, S.W.(CV.2) Department, dated 31.05.2004.
4. From the APHC, Hyderabad, in W.P.No.10347/2004 filed by Sri Behara Eswara Rao, orders dated 23.06.2004.
5. G.O.Ms.No.01, S.W.(CV.2) Department, dated 06.01.2007.
6. Orders of the Hon'ble High Court of AP, Hyderabad in W.P.No.1539/2007, dated 19.09.2017 filed by Sri Behara Eswara Rao.
7. Govt. Memo No.937472/CV.2/2017, dated 09.04.2018 & 06.02.2018.
8. From the District Collector, Srikakulam, brief note of Sri Behara Eswara Rao, dated 16.02.2018.
9. Govt. Memo No.937472/CV.2/2017, dated 20.03.2018.
10. Vakalath filed by Sri K. Srinivasa Rao, Advocate to the appellant, before the Appellate Authority on 07.04.2018.
11. Govt. Memo No.937472/CV.2/2017, dated 30.04.2018.

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ORDER:

In the reference 1st read above, the District Collector, Srikakulam has issued orders cancelling ST-Kapu Savara caste certificate of Sri Behara Eswara Rao, S/o Balakrishna.

2. In the reference 2nd read above, Sri Behara Eswara Rao, S/o Balakrishna, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Srikakulam. The Government have taken up the appeal and obtained parawise remarks and connected records from the District Collector, Srikakulam and after giving an opportunity to the individual for personal hearing, examined the case in detail and after careful examination of the facts and material papers available on record and exercise of the powers conferred under Section 7 (2) of the Act 16 of 1993, rejected the appeal petition filed by Sri Behara Eswara Rao, duly upheld the proceedings of the District Collector, Srikakulam vide orders issued in the reference 3rd read above.

3. Aggrieved by the above orders, in the reference 4th read above, the individual has filed W.P.No.10347/2004 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the G.O.Ms.No.48, S.W.(CV.2) Department, dated 31.05.2004. The Hon'ble High Court of Andhra Pradesh, Hyderabad while disposing the said WP on 23.06.2004 has directed that the impugned G.O. is quashed and set aside, the Government shall afford an opportunity, and in this context, Government shall send notice to the counsel for the petitioner by RPAD fixing the date of hearing of the appeal, and on the appointed day, the counsel for the petitioner, shall without taking any adjournment, shall advance his arguments, and Government shall upon hearing the arguments, consider and dispose of the appeal on merits, and pass appropriate orders. This exercise shall be completed within a period of three months from the date of receipt of a copy of the order.

4. Based on the above directions of Hon'ble High Court of A.P., Hyderabad, the said case was again re-examined by the Government and given reasonable opportunity to the appellant to produce required documents/ records in support of his claim, in Memo, dt: but he failed to produced the same and the appellant is making baseless contentions and by mis-representing facts and on careful examination of the documents of the appellant and material available with the Government, the Government did not find any reason to interfere with the orders issued earliest by the Government and it is proved that he belongs to Turupu Kapu community, but not ST-Kapu Savara community and orders issued in the reference 5th read above.

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5. Aggrieved by the above orders, in the reference 6th read above, the individual has filed W.P.No. 1539/2007 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the G.O.Ms.No.01, S.W.(CV.2) Department, dated 06.01.2007. The Hon'ble High Court of Andhra Pradesh, Hyderabad while disposing the said WP on 19.09.2017 has directed that G.O.Ms.No.01, Social Welfare (CV.2) Department, dated 6.1.2007, is hereby set aside and the matter is remanded to the Government for fresh consideration. The Government, shall dispose of the matter afresh as expeditiously as possible, preferably, within a period of three (3) months from the date of receipt of a copy of the order after giving an opportunity of hearing and examining the oral and documentary evidence to the petitioner. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

6. Based on the above directions of Hon'ble High Court of A.P., Hyderabad, the Revision Petition has been posted for hearing on 27.01.2018, 17.02.2018, 07.04.2018 & finally on 19.05.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 7th, 9th & 11th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 10th read above, Sri K. Srinivasa Rao, Advocate to the appellant, has filed Vakalath before the Appellate Authority on 07.04.2018. The Appellate Authority has conducted final personal hearing on 19.05.2018 and the appellant/ Counsel for the appellant were attended & argued their case on 19.05.2018.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Srikakulam and proceedings of the District Collector, Srikakulam dated 07.10.2001, the Appellate Authority is observed that :

I. The District Level Scrutiny Committee has observed that the MRO, Nandigam has conducted discreet enquiry in the village and submitted his report dated 22.08.1997 along with records of enquiry stating that Sri Behar Eswara Rao belongs to Turupu Kapu by caste but not Kapu Savara-ST community and the surname of the persons with Behara belongs to Turupu Kapu caste as per the entries made in the Birth Register of Nowgam (V). Further, the DLSC have conducted detailed enquiry and verified records deemed necessary and submitted report stating that the individual failed to produce any documentary evidences and also failed to avail opportunity given to him. Thereby confirming the fact that the individual has fraudulently obtained ST certificate, from the then Tahsildar, Tekkali by hiding facts, and recommended for cancellation of false ST caste certificate.

II. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

III. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that he belongs to Kapu Savara community which was identified as Schedule Tribe and also failed to consider that he got job under ST as such the impugned order shall be cancelled.

IV. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for re-appreciation of the case of the appellant and he failed to produce any evidence that he belongs to Kapu Savara Community. As per the act, the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant except relaying the evidence and documents filed before the lower authority failed to produce any additional material for re-appreciation of the case on hand. It is also observed that the appellant was given ample opportunity to produce relevant documents in support of his claim, but the appellant failed to produce the same. Thus, on careful verification of documents of the appellant and material available with the Government, the Government do not find any reason to interfere with orders issued earlier, by the Government in this regard. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Further there is no evidence that the Appellant belongs to ST-Kapu Savara Community and the

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appellant failed to produce any evidence even though a lot of opportunity was given to him by the Government. Hence it is apparent that the revision is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Srikakulam District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference

8. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 8 (1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decide that the revision petition filed by Sri Behara Eswara Rao, S/o Balakrishna does not deserve any interference. Hence, Proceedings of the District Collector, Srikakulam issued vide Rc.No.1233/97/C1, dated 07.10.2001, is hereby upheld and the Revision Petition filed by Sri Behara Eswara Rao, S/o Balakrishna, is hereby dismissed and the Certificate issued in the earlier is deemed to be cancelled .

9. The District Collector, Srikakulam is directed to take necessary consequential action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Srikakulam.(BY RPAD)

Sri Behara Eswararao S/o Sri Balakrishna Murthy,
Superintendent, S.E.Railway,
R/o Railway Quarter No. 618/4, Type-1, Jail Area,
Visakhapatnam.

Sri K. Srinivasa Rao, Advocate,
D.No.77-28-11, Santhi Nagar,
Payakapuram, Vijayawada-520015.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Prl. Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER